



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 110

[Docket Number USCG-2014-0991]

RIN 1625-AA01

Anchorage Grounds; Lower Mississippi River below Baton Rouge, LA, including South and Southwest Passes; New Orleans, LA

AGENCY: Coast Guard, DHS.

ACTION: Interim rule; request for comments.

SUMMARY: The Coast Guard is amending anchorage regulations for the Lower Mississippi River below Baton Rouge. This amendment will modify Cedar Grove Anchorage and White Castle Anchorage, and will establish two new anchorages, Point Michel Anchorage and Plaquemines Point Anchorage, on the Lower Mississippi River, Above Head of Passes. This interim rule increases the available anchorage areas necessary to accommodate vessel traffic; improves navigation safety, providing for the overall safe and efficient flow of vessel traffic and commerce; and aids and assists the economy through increased anchorage capacity, streamlining vessel throughput and increasing ship to port interactions. We invite your comments on this rule.

DATES: This rule is effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Comments and related material must be received by the Coast Guard on or before [INSERT DATE 120 DAYS AFTER DATE OF PUBLICATION IN

THE FEDERAL REGISTER].

ADDRESSES: You may submit comments identified by docket number USCG-2014-0991 using the Federal eRulemaking Portal at <http://www.regulations.gov>. See the “Public Participation and Request for Comments” portion of the SUPPLEMENTARY INFORMATION section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this interim rule, call or email Lieutenant Commander (LCDR) Howard Vacco, Waterways Management Division, Sector New Orleans, U.S. Coast Guard; telephone (504) 365-2281, e-mail Howard.K.Vacco@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	<i>Federal Register</i>
LCDR	Lieutenant Commander
LNM	Local Notices to Mariners
LWRP	Low Water Reference Plane
MNSA	Maritime Navigation Safety Association
ANPRM	Advanced Notice of Proposed Rulemaking
NPRM	Notice of Proposed Rulemaking
§	Section
U.S.C.	United States Code

II. Background Information and Regulatory History

The Coast Guard establishes anchorage grounds under authority in 33 U.S.C. 471. As stated in title 33 Code of Federal Regulation (CFR) 109.05 (33 CFR 109.05), this authority has been delegated to U.S. Coast Guard District Commanders. On April 3, 2015, the Coast Guard published an Advance Notice of Proposed Rulemaking (ANPRM) in the **Federal Register** (FR) (80 FR 18175) proposing to expand existing and establish

new anchorages. An ANPRM is used to test a proposal or solicit ideas, involving interested persons in a potential regulatory action before issuing a formal rulemaking or a Notice of Proposed Rulemaking (NPRM). An agency is not required to publish an ANPRM but may choose to do so.

The Coast Guard is issuing this interim rule without the prior notice and opportunity to comment through the NPRM process, pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment through the NPRM process when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a NPRM with respect to this rule because it is impracticable. This rule will reduce vessel traffic congestion, and decrease the distance between anchorages during the most congested and demanding navigation period. This rule will also assist in maintaining safe navigation and movement of commerce during the high water and increased current conditions present now on the Lower Mississippi River. Delaying implementation of this rule would deny a safer working environment for all mariners utilizing the waterway. Soliciting and responding to comments on an NPRM would delay the margin of safety these new and additional anchorage areas have to offer both the mariners and the port until after the most congested and demanding time of the year – see additional details of hazards and risks in Purpose and Legal Basis section below. This interim rule follows an ANPRM requesting public participation and comments to better assess the need for additional anchorage areas. Comments to the ANPRM included support for additional anchorage

areas in general, constructive suggestions, and a request to expand an additional anchorage. Zero comments opposed the new anchorage areas as proposed in the ANPRM. Additionally, the Coast Guard seeks to receive comment while this interim rule is in effect during the most congested and demanding time of the year.

For the same reasons, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date to provide a full 30 days' notice is impracticable. Immediate implementation is needed to provide a safer working environment for all mariners utilizing this waterway.

III. Purpose and Legal Basis

The Coast Guard received requests from the Crescent River Port Pilots' Association and the New Orleans Baton Rouge River Pilots Association to amend an existing anchorage and establish two new anchorages. These requests were presented and discussed at a Maritime Navigation Safety Association (MNSA) meeting on August 12, 2014 and at a Port Safety Council Meeting on September 10, 2014. Attendees at those meetings did not comment on or object to the requests presented. The Coast Guard received a subsequent request, via a comment to the April 3, 2015 ANPRM, requesting expansion of an additional anchorage. The Coast Guard also observed that during grain season, typically occurring annually from December through May, the anchorages were at maximum capacity. This creates a hazardous condition as vessels experiencing a casualty had no safe anchorage to stop in and the closest safe anchorage for the vessel was further away than was prudent to transit with the casualty. Finally, due to high water conditions on the Lower Mississippi River, the Coast Guard received emergency requests

from industry for additional anchorage area as these conditions are causing increased reliance on safe anchorage to manage transits during both high traffic season and high water. This rule will improve the overall safety of anchored vessels in the White Castle and Cedar Grove Anchorages and provide for two additional anchorage areas to address the increased waterway congestion and improve the overall safe and efficient flow of vessel traffic and commerce.

The distance between the two upper anchorages in the Lower Mississippi River, White Castle Anchorage MM 190.4 and Baton Rouge General Anchorage MM 228.5 is so great that a vessel suffering a casualty between them would become a hazard to the waterway. Plaquemines Point Anchorage was created to help mitigate the risk by reducing the distance between safe anchorage for deep draft vessels in the reach between White Castle Anchorage and Baton Rouge General Anchorage. The addition of the Plaquemines Point Anchorage reduces the greatest distance between anchorages at this stretch from 38.1 miles to 24.1 miles.

The legal basis and authorities for this rule are found in 33 U.S.C. 471, 1221 through 1236, 2071; 33 CFR 1.05–1, Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to propose, establish, and define regulatory anchorages. Through this rulemaking, the Coast Guard is amending two existing anchorage grounds; Cedar Grove Anchorage, 33 CFR 110.195(a)(12) and White Castle Anchorage, §110.195(a)(29), and is establishing two new permanent anchorage grounds; Point Michel Anchorage, § 110.195(a)(35), and Plaquemines Point Anchorage, § 110.195(a)(36).

The Coast Guard has consulted with the Chief of Engineers the Army Corps of

Engineers, New Orleans District about the specific provisions of this interim rule, and the Chief of Engineers has recommended that we proceed with our amendment of two existing anchorage grounds and establishment of two additional anchorage grounds as specified in this rule.

IV. Discussion of Interim Rule

This interim rule establishes two new anchorages and amends two established anchorages to provide necessary additional anchorage area while also requesting comments. While vessels are occupying the new and amended anchorage areas, the impact of this rule will be more apparent to mariners operating in these areas. We believe the mariner will therefore be more inclined to provide input and feedback on how the increased anchorage area is used and if such changes address the needs of the waterway. This feedback will aid the Coast Guard in finalizing these changes and designing better anchorage systems as needed in the future. Additionally, this rule is being timed to take effect during the most demanding maritime environment. During this time the river historically experiences high water levels with faster currents, low river levels with increased shoaling, fog season, and the increased outflow of goods due to grain harvest.

During the ANPRM comment period, the Coast Guard received support for establishing new anchorages and expanding existing anchorages. Four comments were submitted in support of Point Michel Anchorage and Cedar Grove Anchorage. Additionally, one comment requested that the Coast Guard also expand the White Castle Anchorage at Mile Marker 191 Above Head of Passes on the Lower Mississippi River. Therefore, this rule also expands White Castle Anchorage, as requested. It also adjusted the three anchorages discussed in the ANPRM and establishes Plaquemines Point

Anchorage. One comment requested that the Coast Guard include latitude and longitude coordinates for the anchorage limits in addition to the textual description. The Coast Guard considered transitioning the anchorage geographic boundaries from Low Water Reference Plane (LWRP) and River Mile Markers (MM) to latitude and longitude coordinates while developing the ANPRM and found it would not add to the mariners' experience or clarity of the anchorage locations. Due to the ever-changing nature of the Lower Mississippi River, using LWRP as a reference for the anchorage boundaries will allow an anchorage to move with the river in the event that it shifts in vicinity of the anchorage. Using latitude and longitude could require the Coast Guard to amend the anchorage definition every time the U.S. Army Corps of Engineers adjusts the LWRP based on hydrographic survey data.

Therefore, through this interim rule with request for comments, the Coast Guard is establishing two new anchorages and increasing the size of two established anchorages. The two new anchorages are known as the Point Michel Anchorage, § 110.195(a)(35), and the Plaquemines Point Anchorage, § 110.195(a)(36). The two anchorages increased in size are the Cedar Grove Anchorage, § 110.195(a)(12), and the White Castle Anchorage, § 110.195(a)(29).

By increasing existing anchorages and establishing new anchorages, this interim rule increases the available anchorage areas in this section of the river necessary to accommodate vessel traffic; improves navigation safety, providing for the overall safe and efficient flow of vessel traffic and commerce; and aids and assists the economy through increased anchorage capacity, streamlining vessel throughput and increasing ship to port interactions. The additional anchorage area established by this interim rule and

request for comments increases the safety of life and property on navigable waters, while ensuring that the needs and concerns of all stakeholders are addressed through the rulemaking comment process before making the new and increased anchorages permanent through a final rulemaking.

A. Point Michel Anchorage

The Coast Guard is establishing Point Michel Anchorage as an area, 1.4-miles long and 500-feet wide along the right descending bank of the river extending from mile 40.8 to mile 42.2 Above Head of Passes. Its inner boundary is a line parallel to the nearest bank 325 feet from the water's edge into the river as measured from the LWRP. Its outer boundary of the anchorage is a line parallel to the nearest bank 825 feet from the water's edge into the river as measured from the LWRP.

B. Cedar Grove Anchorage

Currently the Cedar Grove Anchorage, under § 110.195(a)(12), is an area extending 1.2 miles in length along the right descending bank of the river from mile 69.9 to mile 71.1 Above Head of Passes. The current width of the anchorage is 500 feet, and the inner boundary is a line parallel to the nearest bank 200 feet from the water's edge into the river as measured from the LWRP, with the outer boundary at a line parallel to the nearest bank 700 feet from the water's edge into the river as measured from the LWRP.

The Coast Guard is amending the Cedar Grove Anchorage to increase the anchorage's overall length by fourteen hundredths of a mile, shifting the lower limit down river from mile 69.9 to mile 69.56 and shifting the upper limit down river from mile 71.1 to mile 70.9.

C. White Castle Anchorage

Currently, the White Castle Anchorage, under § 110.195(a)(29), is an area extending 0.7 miles in length along the right descending bank of the river from mile 190.4 to mile 191.1 Above Head of Passes. The current width of the anchorage is 300 feet and its inner boundary is a line parallel to the nearest bank 400 feet from the water's edge into the river as measured from the LWRP, with an outer boundary at a line parallel to the nearest bank 700 feet from the water's edge into the river as measured from the LWRP.

The Coast Guard is amending the White Castle Anchorage to increase the anchorage's overall length by fourteen hundredths of a mile, shifting the lower limit down river from mile 190.4 to mile 190.3 and shifting the upper limit up river from mile 190.1 to mile 191.14.

D. Plaquemines Point Anchorage

The Coast Guard is establishing Plaquemines Point Anchorage as an area, 0.5 miles in length along the right descending bank of the river extending from mile 203.9 to mile 204.4 Above Head of Passes. The anchorage is 500 feet wide and its inner boundary is a line parallel to the nearest bank 400 feet from the water's edge into the river as measured from the LWRP. Its outer boundary is a line parallel to the nearest bank 900 feet from the water's edge into the river as measured from the LWRP.

We have placed illustrations of each of the four anchorages as amended or established by this rule in the docket, accessible as indicated under ADDRESSES.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders

related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, the rule has not been reviewed by the Office of Management and Budget.

The impacts on routine navigation are expected to be minimal because the anchorage areas are established outside of the navigation channel and will not unnecessarily restrict vessel traffic. When the anchorages are not occupied, vessels will be able to maneuver in and through the anchorage areas, and when occupied there is still room for two-way deep draft traffic to pass.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will not have a significant economic impact on a substantial number of small entities for the following reasons. This rule is amending two existing anchorage grounds and establishing two new anchorage grounds on a portion of the Lower Mississippi River. The new anchorages are being established and managed like all existing anchorages on the Lower Mississippi River. These anchorages are in the Federal Channel, a safe distance from shore, off revetment, in safe water, do not conflict with any other permit and do not impede safe navigation.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule will have a significant economic impact on it, please submit a comment (see ADDRESSES) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism,

if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section above.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969(42 U.S.C. 4321-

4370f), and have made a determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves amending two existing anchorage grounds and establishing two new anchorage grounds on a portion of the Lower Mississippi River. It is categorically excluded from further review under paragraph 34(f) of Figure 2-1 of Commandant Instruction M16475.ID. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

VI. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at <http://www.regulations.gov>. If your material cannot be submitted using <http://www.regulations.gov>, contact the person in the FOR FURTHER INFORMATION CONTACT section of this document for alternate instructions. Documents mentioned in this interim rule, and all public comments, are in our online docket at <http://www.regulations.gov> and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be

notified when comments are posted or a final rule is published.

We accept anonymous comments. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided. For more about privacy and the docket, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

List of Subjects in 33 CFR Part 110

Anchorage grounds.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 110 as follows:

PART 110--ANCHORAGE REGULATIONS

1. The authority citation for part 110 continues to read as follows:

Authority: 33 U.S.C. 471, 1221 through 1236, 2071; 33 CFR 1.05–1;

Department of Homeland Security Delegation No. 0170.1.

2. In § 110.195, revise paragraphs (a)(12) and (29) and add paragraphs (a)(35) and (36) to read as follows:

§ 110.195 Mississippi River below Baton Rouge, LA, including South and Southwest Passes.

(a) * * *

(12) *Cedar Grove Anchorage.* An area, 1.34 miles in length along the right descending bank of the river extending from mile 69.56 to mile 70.9 Above Head of Passes. The width of the anchorage is 500 feet. The inner boundary of the anchorage, mile 69.56 to mile 70.9, is a line parallel to the nearest bank 200 feet from the water's

edge into the river as measured from the LWRP. The outer boundary of the anchorage is a line parallel to the nearest bank 700 feet from the water's edge into the river as measured from the LWRP.

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(29) *White Castle Anchorage*. An area, 0.84 miles in length, along the right descending bank of the river extending from mile 190.3 to mile 191.14 Above Head of Passes. The width of the anchorage is 300 feet. The inner boundary of the anchorage is a line parallel to the nearest bank 400 feet from the water's edge into the river as measured from the LWRP. The outer boundary of the anchorage is a line parallel to the nearest bank 700 feet from the water's edge into the river as measured from the LWRP.

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(35) *Point Michel Anchorage*. An area, 1.4 miles in length, along the right descending bank of the river extending from mile 40.8 to mile 42.2 Above Head of Passes. The width of the anchorage is 500 feet. The inner boundary of the anchorage is a line parallel to the nearest bank 325 feet from the water's edge into the river as measured from the LWRP. The outer boundary of the anchorage is a line parallel to the nearest bank 825 feet from the water's edge into the river as measured from the LWRP.

(36) *Plaquemines Point Anchorage*. An area, 0.5 miles in length, along the right descending bank of the river extending from mile 203.9 to mile 204.4 Above Head of Passes. The width of the anchorage is 500 feet. The inner boundary of the anchorage is a

line parallel to the nearest bank 400 feet from the water's edge into the river as measured from the LWRP. The outer boundary of the anchorage is a line parallel to the nearest bank 900 feet from the water's edge into the river as measured from the LWRP.

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Dated: June 1, 2017.

D. R. Callahan,
Rear Admiral, U.S. Coast Guard,
Commander, Eighth Coast Guard District.

[FR Doc. 2017-12320 Filed: 6/13/2017 8:45 am; Publication Date: 6/14/2017]